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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,345	07/02/2003	Bernd Kronenbitter	3201-339(D4700-00352)	5124

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EXAMINER
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HUYNH, KHOA D

ART UNIT	PAPER NUMBER
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3751

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application No.

10/613,345

Applicant(s)

KRONENBITTER ET AL.

Examiner

Khoa D. Huynh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 April 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 2 and 6-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 6-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2 and 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oberdorfer (5009247) in view of Mericle (4214586).

Regarding claim 1, the Oberdorfer reference discloses a plumbing fixture. The fixture includes a housing (1), an installation opening (the opening where elements 8 and 5 passing through), a line (5) exiting the installation opening, a line (4) routed through the installation opening in the housing, and a connector (the connecting piece for elements 5 and 4) that connects the ends of the two lines arranged outside the housing.

The Oberdorfer reference DIFFERS in that it does not specifically disclose a quick connector as claimed. Attention, however, is directed to the Mericle reference which discloses a quick-connect connector (16) for connecting the ends of two (tubular) lines together (Fig. 4). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Oberdorfer device by employing a quick-connector, in view of the teaching of Mericle, in order to conveniently and quickly connect the spray head to the mixer of the faucet. The modified Oberdorfer reference also teaches

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fittings (10 in Fig. 1 of Mericle) connected to the ends of the lines. The fittings are inserted into the quick connector and latched into place there. The ends of the lines are disconnected from the connector without using tools. Furthermore, as schematically shown in Fig. 4 of Mericle, the detenting and latching of the connector and the fittings are generated by deformation of parts of the connectors.

Regarding claim 2, the Mericle quick connector (16) can be construed as "plug-in" connector since it allows the ends of the line to be plugged into the housing of the connector.

Regarding claims 6 and 7, the modified Oberdorfer reference also DIFFERS in that it does not specifically disclose that the fittings are soldered or adhesive bonded to the ends of the lines as claimed. It, however, would have been obvious to one of ordinary skill in the art at the time the invention was made to use such attaching method for the ends of the lines and the fittings in order to ensure a secure and fluid-tight structure.

Regarding claim 8, as schematically shown in Figure 1 of Oberdorfer, line 5 is a pipe and line 4 is a hose.

Regarding claim 9, the connector (16) is a single piece and made of a polymeric (plastic) material (col. 4, lines 13-18).

3. Claims 1, 2 and 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oberdorfer (5009247) in view of Frey (4067534).

Regarding claim 1, the Oberdorfer reference discloses a plumbing fixture. The fixture includes a housing (1), an installation opening (the opening where elements 8 and 5 passing through), a line (5) exiting the installation opening, a line (4) routed through the installation opening in the housing, and a connector (the connecting piece for elements 5 and 4) that connects the ends of the two lines arranged outside the housing.

The Oberdorfer reference DIFFERS in that it does not specifically disclose a quick connector as claimed. Attention, however, is directed to the Frey reference which discloses a pipe coupler assembly having a quick-connect connector (60) for connecting the ends of two lines together (Fig. 2). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Oberdorfer device by employing a quick-connector, in view of the teaching of Mericle, in order to conveniently and quickly connect the spray head to the mixer of the faucet. The modified Oberdorfer reference also teaches fittings (16 in Fig. 1 of Frey) connected to the ends of the lines. The fittings are inserted into the quick connector and latched into place there. The ends of the lines are disconnected from the connector without using tools. Furthermore, as schematically shown in Fig. 1 of Frey, the detenting and latching of the connector and the fittings are compressively deformed parts of the connectors (element 18 is compressed into engagement with elements 76 and 78).

Regarding claim 2, the Frey quick connector (60) can be construed as "plug-in" connector since it allows the ends of the line to be plugged into the housing of the connector.

Regarding claims 6 and 7, the modified Oberdorfer reference also DIFFERS in that it does not specifically disclose that the fittings are soldered or adhesive bonded to the ends of the lines as claimed. It, however, would have been obvious to one of ordinary skill in the art at the time the invention was made to use such attaching method for the ends of the lines and the fittings in order to ensure a secure and fluid-tight structure.

Regarding claim 8, as schematically shown in Figure 1 of Oberdorfer, line 5 is a pipe and line 4 is a hose.

Regarding claim 9, the connector (60) is a single piece and made of a polymeric (plastic) material (see cross-section).

#### ***Response to Amendment***

4. Applicant's amendment, filed on 04/21/2005, to the pending claims is insufficient to distinguish the claimed invention from the cited prior art or overcome the rejections as discussed above.

#### ***Response to Arguments***

5. Applicant's arguments filed on 04/21/2005 with respect to the pending claims have been fully considered. However, they are deemed not persuasive.

Applicant asserts that there is no suggestion or teaching to combine the references, i.e. Oberdorfer and Mericle to arrive at the invention as claimed since they

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are not analogous art. See the Remarks section, pages 8-9. The examiner is respectfully traversed.

The examiner recognizes that references cannot be arbitrarily combined and that there must be some reasons why one skilled in the art would be motivated to make the proposed combination of primary and secondary references. However, there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art. In this case, for instance, the Oberdorfer reference does teach a plumbing fixture having substantially all features (see above rejection) except for the quick connector and the fittings as claimed. The Mericle reference is applied herein for the teaching of using a coupling device having a quick connector and the fittings. Furthermore, the Mericle reference also discloses that the coupling device may also be fabricated in larger size so that it can be used to joint synthetic made devices (col. 4, lines 8-12). The examiner maintains that such modification, i.e. using a coupling device having a quick connector and the fittings is reasonably pertinent and is well within one of ordinary skill art and is not convinced that the use of such coupling device rises to the level of patentability since it is known that quick connector/disconnect or is often used to connect/disconnect pipes, hoses, tubes and so on.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning (see remarks section, pages 8-9), again it must be recognized that any judgment on obviousness is in a sense

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necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Also applicant's arguments with respect to claims 1, 2 and 6-9 have been considered but are moot in view of the new grounds of rejections under 35 U.S.C. 103(a) as being unpatentable over Oberdorfer in view of Frey as discussed supra.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pinciario, Collins and Schnell were cited to show a quick connector for connecting the ends of two pipes.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of



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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa D. Huynh whose telephone number is (571) 272-4888. The examiner can normally be reached on M-F (7:00-3:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Khoa D. Huynh  
Primary Examiner  
Art Unit 3751

HK  
07/08/2005